

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

448I0682

## SENATE BILL NO. 171

Introduced by: Senators Knudson and Earley and Representatives McCaulley, Michels, and  
Williamson

1 FOR AN ACT ENTITLED, An Act to provide for certain asset-backed securitizations.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 54-1 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 For purposes of this Act, a securitization is the pooling and repackaging by a special purpose  
6 entity of assets or other credit exposures that can be sold to investors. Securitization includes  
7 transactions that create stratified credit risk positions whose performance is dependent upon an  
8 underlying pool of credit exposures, including loans and commitments.

9 Section 2. That chapter 54-1 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Notwithstanding any other provisions of law specifically including § 57A-9-623, to the extent  
12 set forth in the transaction documents relating to a securitization transaction:

13 (1) Any property, assets, or rights purported to be transferred, in whole or in part, in the  
14 securitization transaction shall be deemed to no longer be the property, assets, or  
15 rights of the transferor;



- 1       (2)    A transferor in the securitization transaction, its creditors or, in any insolvency  
2           proceeding with respect to the transferor or the transferor's property, a bankruptcy  
3           trustee, receiver, debtor, debtor in possession, or similar person, to the extent the  
4           issue is governed by South Dakota law, have no rights, legal or equitable, whatsoever  
5           to reacquire, reclaim, recover, repudiate, disaffirm, redeem, or recharacterize as  
6           property of the transferor, any property, assets, or rights purported to be transferred,  
7           in whole or in part, by the transferor; and
- 8       (3)    In the event of a bankruptcy, receivership, or other insolvency proceeding with  
9           respect to the transferor or the transferor's property, to the extent the issue is  
10          governed by South Dakota law, such property, assets, and rights may not be deemed  
11          to be part of the transferor's property, assets, rights, or estate.